



Paper No. 5

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COPY MAILED**AUG 21 2002****OFFICE OF PETITIONS**

In re Application of
Xuzhi Qin : DECISION GRANTING PETITION
Application No. 10/038,350 :
Filed: November 20, 2001 :
Attorney Docket No. 589.117US1 :
:

This is a decision on the petition filed June 3, 2002, requesting that above-identified application be accorded a filing date of November 20, 2001, instead of the present filing date of January 7, 2002.

In the present petition, Amy Mesojedec, a paralegal for Mark A. Litman & Associates, stated she mailed the application via Express Mail service with Express Mail Label No. EL703681749US on November 20, 2001. Ms. Mesojedec further stated that she handed the application to a United States Postal Service (USPS) mail carrier, who brought the package to the USPS Branch in Edina, MN.

Unfortunately, on November 16, 2001, the USPS issued a memorandum temporarily and immediately suspending Express Mail Service to Washington, DC zip codes 202xx through 205xx. The United States Patent and Trademark Office (Office) designated this interruption in USPS Express Mail Service as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e).

On November 22, 2001, Ms. Mesojedec received a receipt from the USPS with a hand-written note on the receiving address stating, "SUSPENSION."

On October 9, 2001, the Office published a notice in the Official Gazette, which provides guidance under these circumstances, when deposit in Express Mail is refused due to the suspension. See United States Postal Service Interruption and Emergency, 1251 Off. Gaz. Pat. Office 55 (Oct. 9, 2001).

Accompanying the present petition, petitioner supplied a statement from Ms. Mesojedec declaring that she attempted to deposit the application with the USPS via Express Mail Service on November 20, 2001. Ms. Mesojedec further declares that a USPS employee at the USPS Branch in Edina, MN informed her that due to the suspended delivery to the address, the package was sent regular first class mail.

The requirements of the notice set forth in the Official Gazette on October 9, 2001, have been met. Accordingly, the petition is granted. The application will be accorded a filing date of November 20, 2001. The petition fee is unnecessary and will be credited to Deposit Account No. 50-1391.

The application file is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of November 20, 2001, and for mailing a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

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for Patent Examination Policy